THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 23480 of 2007

Dated: 06.11.2007

Between:

M/s. Aditya Enterprises,
Rep., by B. Krishna Murthy,
Bandlamitta, Ongole,
Prakasam District.

... Petitioner

AND

The Secretary,
Regional Transport Authority,
Ongole, Prakasam District
& another.

... Respondents

Counsel for the petitioner : Sri B. Siva Rama Krishnaiah

Counsel for the respondents : Assistant Government Pleader for Transport

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 23480 of 2007

ORDER:-

This writ petition is filed for a writ of mandamus to declare the seizure of the petitioner's vehicle bearing No.AP/27V – 6613 under vehicle report No.1559480 dated 07.10.2007 by respondent No.2, as illegal and for a further direction to the respondents to release his vehicle forthwith.

A perusal of the record shows that the petitioner's vehicle, which is described hereinabove, was stopped and checked at a place called Byramalguda on 07.10.2007 at 6.50 a.m. and clause 6 of the check report contains the following alleged violations:

> "Stopped and checked the vehicle while proceeding to Hyderabad with 25 passengers and on enquiry found that they are individual passengers proceeding from Ongole to Hyderabad as individual purpose by paying individual fares. There is no express or implied contract between the owner and the driver. Hence, plying as express stage carriage violating permit conditions. Unauthorized alteration from 13 in all to 25 in all. Seating arrangement as follows attracting tax. Hence, seized the vehicle under Sec. 207 of M.V. Act and under Section 8 of A.P.M.V.T. Act and advised the driver to bring the vehicle Nagole for seizure."

Heard Sri B. Siva Rama Krishnaiah, learned counsel for the petitioner and the learned Assistant Government Pleader for Transport.

As on today, even according to the respondents, no tax has been finally determined. Whether the petitioner is liable to pay the

tax as indicated in the alleged show cause notice or not, is an aspect requiring final determination after receiving an explanation from the petitioner. Since the vehicle is prone to deterioration in its condition if it is kept idle, its continued detention would cause serious harm to the interests of the petitioner. If the petitioner has committed violation of the provisions of the Motor Vehicles Act, 1988 and the A.P.Motor Vehicles Taxation Act, 1963 on determination of his liability he is bound to pay the tax or penalty subject to remedies available to him in law.

Therefore, I feel it appropriate that a direction be given to the respondents to release the vehicle to the petitioner subject to the following conditions:

1) Respondent No.1 shall release the vehicle bearing registration No.AP/27V – 6613 to the petitioner subject to his filing an undertaking that he will not alienate or in any manner transfer the ownership of the vehicle, pending determination of the petitioner's liability.

2) As and when the liability is determined by respondent No.1, he is at liberty to enforce the same subject to the remedies available to the petitioner.

The writ petition is disposed of.

As a sequel to disposal of the writ petition, WPMP.No.30603 of 2007 filed by the petitioner for interim relief is disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

Date: 06.11.2007

Note:- Issue CC today
B/o.
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